

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE PANEL ON HUMAN RIGHTS AND CLIMATE CHANGE HUMAN RIGHTS COUNCIL, 11TH SESSION 15 JUNE 2009

Overview	1
Opening presentations by panellists.....	2
Interactive dialogue.....	3
Further information.....	4

Overview

On 15 June 2009 the Human Rights Council (the Council) held an interactive panel on the relationship between climate change and human rights. In its *Resolution 10/4*, the Council decided to hold a panel discussion on the relationship between climate change and human rights in order to contribute to the realisation of the goals set out in the Bali Action Plan.¹ After opening remarks by the Deputy High Commissioner for Human Rights, Ms Kyung-wha Kang, in which she emphasised the necessity to include a human rights dimension in the existing and future climate change framework, five experts expressed their views regarding the role of human rights and climate change. All experts agreed that climate change has severe implications for the full enjoyment of human rights, especially for members of vulnerable groups. They put forth that a human rights approach would be crucial to the ongoing climate change negotiations as it strengthens policy-making and promotes policy coherence, legitimacy, and sustainable outcomes.

The interactive dialogue was dominated by developing States outlining the visible implications climate change has on their countries and populations.² They added that their lack of resources makes effective adaptation and mitigation measures difficult. Therefore, they urged the international community and particular more economically advanced States to provide technical assistance and resources to enable all countries to fulfil their human rights obligations. They emphasised that economically advanced States are the main polluters and therefore most responsible for the effects of climate change. States were interested to learn from the panellists what role the Council and other parts of the human rights system could play regarding the negative impact of climate change on human rights. Several participants of the dialogue expressed the wish for a new special procedure mandate on climate change.

¹ The Council further decided (in its *Resolutions 7/23* and *10/4*) to request OHCHR to conduct a study and prepare a summary of the Council's discussions on this issue to be made available to the Conference of Parties to the *United Nations Framework Convention on Climate Change*.

² Maldives, Philippines, Thailand, India, Mauritius, Bangladesh, Pakistan, Costa Rica, Bhutan, Uruguay, Indonesia, Chad, Cuba, Bolivia, Morocco.

Opening presentations by panellists

The expert panel comprised:

- Mr Atiq Rahman, Executive Director of the Bangladesh Centre for Advanced Studies, Dhaka and the Winner of the UN environmental award ‘the Champion of the Earth 2008.’
- Ms Raquel Rolnik, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.
- Mr Feng Gao, Director for Legal Affairs of the United Nations Framework Convention on Climate Change (UNFCCC) Secretariat.
- Mr Dalinyebo Shabalala, Managing Attorney, Geneva Office of the Centre for International Environment Law (CIEL).
- Mr John Knox, Professor of Law, Wake Forest University.

Firstly, Mr Feng Goa provided an **update on the status of international negotiations regarding a global climate change framework**. He argued that international negotiations are at the cross roads of a critical phase that began with the adoption of the Bali Action Plan and are set to conclude in Copenhagen this December. Mr Feng Goa claimed that the outcome of the Copenhagen conference is set to change the direction of the world economic growth and gather the necessary financial and technological support to enable developing States to mitigate the causes and adapt to the effects of climate change. He reiterated that negotiators now give equal urgency to adaptation to the impacts of climate change and to the mitigation of causes because they realised that the poorest and most vulnerable are the least prepared for the potential impact of climate change. Parties are also recognising that efforts to address climate change need to strengthen States efforts at eradicating poverty and enable sustainable, climate resilient development that protects the most vulnerable. Mr Feng Goa recognised that concerns of States and international organisations regarding the impact of climate change on various human rights have been reflected in the negotiating texts.

Secondly, Mr Atiq Rahman outlined in detail the **severe impact climate change has on fundamental human rights**. He pointed out that climate change affects rights such as the right to life, food, safe drinking water, health, home, land, properties, livelihoods, employment, and development. He described global climate change as the ‘greatest threat facing humankind’ today. He stated that the effects of climate change might lead to the displacement of over 200 million people in the near future, which would enhance rural and urban migration as well as international migration. These ‘climate refugees’ will create new socio-political instability in many parts of the world. Mr Rahman argued that the poverty situation may further deteriorate in Asia and in Africa due to climate change impacts and that the progress made in recent years in human development is being threatened by climate change. He added that the conventional disaster risk reduction (DRR) measures are not effective due to the frequency and intensity of climatic disasters. As costs for DRR have increased worldwide, poor countries need increased assistance for effective DRR. He explained that climate change is a result of unequal development and consumption and therefore advocated for a change of life style in the developed world, which is currently based on over-consumption. He concluded by arguing that greenhouse gas emissions need to be reduced urgently by creating an effective framework for ‘post 2012’ by promoting low carbon sustainable economic development.

Mr Shabalala discussed comprehensively **the link between climate change and human rights**. He asserted that the key elements of the UNFCCC to combat climate change were failing. The current framework focused on greenhouse gas emissions reduction and ignored the key element of ‘common but differentiated responsibilities’ , which would help in addressing the needs of the poor and vulnerable communities. He argued that human rights could contribute both to mitigation and adaptation measures. According to Mr Shabalala, the transfer of resources to developing countries for mitigation is part of the rationale underlying the UNFCCC. Thus developing countries could only commit to reducing greenhouse gas emissions once they have access to enabling.

He also deplored that the UNFCCC put too much emphasis on economic aspects, which allows major funding agencies such as the World Bank and regional development banks to continue policies that have detrimental effects on the economic, social and cultural rights of the poor. Mr Shabalala argued that a human rights approach could play a role in the identification of the beneficiaries of resources transferred for mitigation and adaptation

programmes, in the identification and prioritisation of mitigation and adaptation actions, in ensuring compliance with UNFCCC obligations, and in evaluating and assessing the impact of mitigation and adaptation strategies. He also pointed out that such a human rights approach could make use of well-developed human rights monitoring mechanisms, including the treaty bodies and thereby contribute to strengthen the weak mechanism to check compliance with the UNFCCC. In this vein, he suggested that climate change be included in reports to the Committee on Economic Social and Cultural Rights, which would help to assess compliance of countries with their climate change obligations.

The Special Rapporteur on the right to housing, Ms Rolnik, raised the issue of **migration and forced migration** as a result of climate change. She emphasised the importance of immediate investment in urban and rural infrastructure and assisted migration programmes. Furthermore she argued that any solution needs to be designed with the participation of the affected people. Ms Rolnik stressed that States must take the human rights impacts of all mitigation and adaptation measures into consideration early on in the process of designing such measures. She also informed the Council that several special procedures mandate holders have already focused on the implications of climate change on particular rights.³

In the last presentation Mr John Knox embarked on a theoretical reflection on the intersection of human rights and climate change. While he agreed that climate change has obvious implications for the enjoyment of human rights, he pointed out that it is difficult to agree to what extent such effects can be qualified as human rights violations. Secondly, he emphasised that climate change is a global problem and therefore cannot be tackled by any single State on its own. This, according to Mr Knox, raises the problem that extraterritorial obligations under human rights law may be contested or unclear.

Finally, Mr Knox underscored the need for a human rights response to climate change to be complementary rather than duplicative to the existing UNFCCC. This could be achieved by studying the effects of climate in ‘a more detailed human context’, possibly by a new special procedures mandate. He argued that focusing on effects for certain groups would deepen the understanding of the human costs of climate change. Secondly, human rights law should set the standard that climate negotiations must meet. And lastly, human rights bodies may be able to call attention to specific areas that are not being assessed in the climate negotiations, but have serious implications for human rights such as the situation of refugees.

Interactive dialogue

The majority of States and all panellists agreed that climate change affects human rights and in particular the rights of the poorest and most vulnerable. Agreement was also apparent with regards to the usefulness to incorporate a human rights approach into the climate change framework. States felt that such an approach would be useful, as it would shift the focus from a technical discussion on climate change to the effects on individuals and communities. Moreover, all States argued that a human rights approach would include the poor and the most vulnerable of a population.

Finland, the Czech Republic (on behalf of the EU) and Thailand highlighted in particular the **vulnerability of women, children and indigenous people**. The World Wide Organisation for Women argued that women are more severely affected by the consequences of climate change. Finland claimed that the participation of women and indigenous people has been underutilised to combat the effects of climate change and suggested to incorporate ‘women’s empowerment’ in the Kyoto protocol. Only the USA criticised the human rights approach by arguing that the human rights context does not provide the appropriate framework to tackle climate change and that international treaties are better ways to address the issue. Mr Shabalala responded that the seriousness and urgency of the issue demands that all stakeholders engage and discuss the issue in various forums.

³ The Special Rapporteurs on the right to food, IDPs, indigenous people, on freedom of expression and the Independent Experts on the access to water and sanitation and extreme poverty.

Several States highlighted that climate change will have **implications for peace and security** because it might lead to competition for scarce resources.⁴

The European Commission and Costa Rica recognised that climate change is a direct threat to the achievements of the Millennium Development Goals and therefore stressed together with Australia that the climate change issue should be **integrated into development policies**.

Several participants supported the finding of Ms Rolnik regarding the **issue of migration** due to the impact of climate change and demanded to step up efforts in this regard.⁵ Monaco welcomed the integration of the issue in the OHCHR study on climate change.

Brazil, Mauritius and the Philippines also welcome the **OHCHR study on human rights and climate change**⁶ but argued that it took not fully into account all concerns. Brazil criticized that the study did not take into account the right to development.

Several States, mostly developing States, outlined the **visible effects** of climate change on their population.⁷ They stressed that the impact of climate change is unevenly distributed because the polluters suffer the least whereas developing countries, which contribute insignificantly to climate change suffer the most. The Maldives, on behalf of 14 smaller developing island States, argued that due to the costs of adaptation to the effects of climate change it is increasingly difficult to safeguard human rights for the population. Many States argued that **international cooperation** is needed to be able to fund adaptation and mitigation measures and for the continuous protection of human rights.⁸ In this respect Mexico proposed an international regime in form of a world fund.

A large number of States commented on the existing UNFCCC framework. India and Pakistan argued that the UNFCCC has failed to effectively address climate change. Brazil, Bhutan and Germany stipulated that the UNFCCC should take human rights implications into account and that the Council should send a strong message to the negotiators in Copenhagen. The Friedrich Ebert Stiftung argued that UNFCCC should seek consultations with human rights representatives. Building on the suggestions by Mr Shabalala, several States wished for climate change considerations to be included in the reviews by the **UPR and the treaty bodies**.⁹

In response to various questions how UN human rights mechanisms could strengthen States obligations regarding climate change the panel speakers, Mr Shabalala, Mr Knox, Ms Rolnik supported by the Maldives, Costa Rica and Bangladesh put forward the idea of a new **mandate for a special procedure on climate change**.

Despite the absence of a concrete outcome of the panel discussion on climate change, it might be an example of how panels can contribute to the Council's thematic work. It can serve as a platform to build support for new ideas, such as the proposed special procedures mandate on human rights and climate change. The discussion on climate change went from a resolution asking OHCHR to conduct a study, to a further resolution convening a panel debate. The weight of the additional expertise and input collected through the panel discussion, might assist the interested States in arguing their case for a new mandate, or at least for continued focused attention by the Council.

It seems that the panellists managed to shed light on a new dimension of the Council's work. However, overall the interactive dialogue did not do justice to the wealth of knowledge provided by the experts, which also highlights a limitation of the Council's thematic work. Although it seems useful that the Human Rights Council consider

⁴ Slovenia, Australia and Israel.

⁵ Azerbaijan, Monaco and Civicus.

⁶ A/HRC/10/61 available on <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>

⁷ Maldives, India, United Arab Emirates, Uruguay, Slovenia, Chad, Philippines, Thailand, Brazil, Algeria, and Bolivia

⁸ Maldives, Pakistan, Thailand, Morocco, and Bolivia

⁹ Costa Rica, Bolivia

crosscutting themes that have an obvious human rights dimension, it would be desirable that delegations are equipped with more multidisciplinary expertise in various specialised fields of work.

Further information

For further information on the Human Rights Council, please consult the following resources:

- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council's proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Oral statements made at the Council, as well as other informal documents and draft resolutions are available on the 'OHCHR extranet' at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: 'hrc extranet' Password: '1session'.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 11th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/11session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/11session/reports.htm>.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

COUNCIL MONITOR STAFF

Eléonore Dziurzynski, Communications Officer
Michael Ineichen, Human Rights Officer
Gareth Sweeney, Deputy Manager
Katrine Thomasen, Manager International Programme

CONTRIBUTORS

Rachel Breen, intern
Joelle Dek, Intern
Dmitry Foryy, Intern
Mabel Kirabo, Intern
Ladina Knapp, Intern
Clara Martino, Intern
Isabella Ries, Intern
Peter Tubman, Intern

ABOUT THE PUBLICATION

The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch.

SUBSCRIPTION

If you wish to receive the Council Monitor Daily Updates by e-mail during the Council session, please e-mail information@ishr.ch with 'subscribe' in the subject line. Your e-mail address and personal information will not be shared or sold to any third parties. We may from time to time send you a notification about other publications in the Human Rights Monitor Series that you may be interested in downloading or subscribing to.

COPYRIGHT, DISTRIBUTION AND USE

Copyright © 2009 International Service for Human Rights. Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders. ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify information@ishr.ch.